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1959

## CONGRESSIONAL RECORD — SENATE

4225

and for other purposes introduced by Mr. WILLIAMS of Delaware (for himself and Senators BRIGGS, ALLOTT, MANSFIELD, DWORSHAK, JAVITS, and KEATING) on March 12, 1959.

### JUDICIAL REVIEW OF EMPLOYEE DISCHARGE CASES

Mr. KEATING. Mr. President, I introduce for appropriate reference a bill to provide procedures for judicial review of administrative removals and suspensions of Federal employees.

Under the present law Government employees must go to the district court in the district where they are employed for review of decisions of their employment. In my opinion, the people who are scattered all over the country should not be forced to travel all the way to Washington to appear in their cases. My bill would give all Federal district courts jurisdiction to review decisions involving employees residing in that particular district.

The bill is designed to correct another glaring defect in the procedure for reviewing decisions of Government employees. At present a discharged employee, who has a right to believe his discharge was unjust, must go to the district court to determine whether he should be reinstated, but that court cannot award him back pay even if it holds in his favor. The employee must bring a separate suit for back pay in the Court of Claims. That has meant duplication of effort and expense not only to the employee but to the Government. And since each court is bound by the decision of the other, inconsistent results have been reached in the Federal courts.

My bill would remedy this situation by giving the Federal district court jurisdiction to consider both reinstatement and the claim for back pay all in one action.

The bill would also encourage the courts to seek advice of superior civil service commissions, thus not the function of the Federal courts to determine the suitability of retention of an employee for a national position. These have already been the province of administrative machinery and the bill would alter the courts' function.

This bill is also designed to make more prompt review of administrative removals and suspensions of Federal employees. At present, the courts are not required to act until after the administrative process has been completed. The bill would require the courts to act within 60 days of the institution of the administrative process, and to make their decisions without the aid of employees' attorneys.

Mr. President, I suggest that the text of the bill be printed following my remarks in the Record.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 1490) to amend title 28 of the United States Code to provide for certain judicial review of administrative removals and suspensions of Federal employees, introduced by Mr. KEATING, was

received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) chapter 23 of title 28 of the United States Code is amended by adding at the end thereof the following:

#### § 1361. Removal and suspension of Federal employees

"The district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands shall have jurisdiction of appeals of civilian employees in the executive branch of the Federal Government: (1) for reinstatement or restoration to duty following final action by the appropriate administrative authority for the removal or suspension without pay from the service; or (2) concurrently with the Court of Claims, for compensation as provided by law for the period of such removal or suspension; or (3) for both such reinstatement or restoration and compensation.

"Any such appeal shall be filed within sixty days after the date of the final administrative action in that court within the jurisdiction of which the employee is employed or in the District Court for the District of Columbia.

Action for such appeal may be brought against the appropriate officer or agency of the United States and service of process upon such officer or agency may be made at any place in the United States.

"The administrative record of the case, except for matters which are privileged or confidential, shall be filed with the court by the officer or agency concerned.

"The decision of any such court shall be subject to review as provided for such court in this title.

"Nothing contained in this section shall affect the scope of review of any court in actions under this section."

### BILL FOR JUDICIAL REVIEW OF DECISIONS OF VETERANS' ADMINISTRATION

Mr. KEATING. Mr. President, I introduce, for appropriate reference, a bill to permit judicial review of decisions of the Administrator of Veterans Affairs.

Under the present law judicial review of such decisions is denied on the ground that the benefits accorded to veterans under various Federal laws are mere bounties or gifts. I do not accept that theory. The benefits accorded veterans, many of whom have placed their lives in jeopardy in the service of their country, should not be regarded as a matter of munificence. It is true of course, that the granting or withholding of such benefits is a matter within the discretion of Congress itself, but it does not follow from this that the administration of these benefits should be left to the unchallengeable discretion of any Government bureau.

The proceedings for judicial review under this bill parallel those applicable to the review of other administrative agency determinations. They are designed to afford expeditious judicial consideration of decisions of the Veterans' Administration without overburdening

the courts with the necessity for rehearing the evidence presented.

The very least we can do for our veterans is to give them a day in court when they become involved in controversies with Government agencies.

This bill should receive early consideration in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed following my remarks in the Record.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 1490) to permit judicial review of decisions of the Administrator of Veterans Affairs, introduced by Mr. KEATING, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any other provision of law, any person aggrieved by any final decision of the Administrator of Veterans Affairs (hereinafter referred to as the "Administrator") which has been rendered by the Board of Veterans Appeals, may obtain a review thereof by filing a petition for review in the court of appeals for the circuit in which the petitioner resides or in the court of appeals for the District of Columbia within sixty days after the mailing of notice of the decision to the aggrieved party. A copy of such petition shall forthwith be served upon the Administrator. Within fifteen days after the receipt of service, or within such additional time as the court may allow, the Administrator shall certify and file with the court a transcript of the record upon which the decision complained of was based. Upon the filing of such transcript the court shall have exclusive jurisdiction to review the decision, and to affirm, modify or reverse it in whole or in part. The findings of the Administrator as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Administrator, the court may order such additional evidence to be taken before the Administrator upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken. He shall file with the court a transcript of the additional record which is modified or new findings, which if supported by substantial evidence shall be conclusive, and his recommendation for the affirmance, modification, or reversal of the original decision. The judgment and decree of the court affirming, modifying, or reversing in whole or in part, any decision of the Administrator shall be final, except that it shall be subject to review by the Supreme Court of the United States as provided by title 28, United States Code, section 1254.

SEC. 2. Notwithstanding any other provision of law, the court may determine and allow such reasonable fees as it may deem proper for services rendered by an attorney for any private party to the proceeding. Any person who charges or receives any compensation for such services, except such compensation as may be allowed by the court, shall be punished by a fine of not more than \$500 or imprisonment for not more than one year, or both.